

REMARKS

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Thus, claim 1 has been amended to require that the casting product has a hcp structured magnesium phase which has an average particle diameter of 2 μm or more, which is based on the disclosures page 38, lines 12-14 and page 40, lines 6-8 of the specification. Similar amendments have been made in claim 19. Claims 4, 6, 22 and 24 have also been amended to recite the average particle diameter of the hcp structured magnesium phase. In view of these amendments, claim 26 has been cancelled.

Applicants respectfully submit that these amendments should be entered, even though they are presented after a final rejection, since the effect of the amendments is to clearly place the application in condition for allowance, as will be apparent from the following remarks.

Thus, the patentability of the presently claimed invention over the disclosures of the references relied upon by the Examiner in rejecting the claims will be apparent upon consideration of the following remarks.

The rejection of claims 1, 3-4, 6, 12-14, 19, 21-22, 24 and 31-33 under 35 U.S.C. § 103(a) as being unpatentable over Kawamura et al., as well as the rejection of claims 8-11 and 26-30 under 35 U.S.C. § 103(a) as being unpatentable over Kawamura et al. in view of JP 05-306424 and the rejection of claim 38 under 35 U.S.C. § 103(a) as being unpatentable over Kawamura et al. in view of USP 3,334,998, are respectfully traversed.

Applicants continue to rely on their arguments of record in support of the patentability of the present invention over the disclosures of these references.

With regard to the “Response to Arguments” section on page 7 of the Office Action, Applicants note that the melt-spun ribbons of Kawamura et al., which are annealed at 573 K for 1.2 ks, have a hcp structured magnesium phase with an average particle diameter of **less than 2 μm** because the melt-spun ribbons are a rapidly solidified magnesium alloy. Therefore, the casting product of the present invention, which has a hcp structured magnesium phase with an average particle diameter of **2 μm or more**, is distinguished from the rapidly solidified magnesium alloy product of the Kawamura et al. reference.

In support of this argument, and the distinction between the casting product of the present invention as compared to the rapidly solidified product of Kawamura et al., please see the

attached Rule 132 Declaration of one of the present inventors. Applicants respectfully submit that this Declaration should be entered, even though it is presented after a final rejection, since it is responsive to the Examiner's position on page 7 of the Office Action, presented for the first time in the current Office Action, which is the reason that the Declaration was not presented earlier.

In view of the distinction between the present invention and the Kawamura et al. reference as discussed above, Applicants submit that all of the prior art rejections should be withdrawn, since all of these rejections rely on this reference, and therefore, even if Kawamura et al. were combined with the secondary references applied by the Examiner, the result of such combination would still not suggest the presently claimed invention.

The Examiner has also set forth three provisional obviousness-type double patenting rejections of the present claims based on claims of Application Nos. 11/943207, 12/225069 and 11/727729. Applicants respectfully request that these provisional rejections be held in abeyance pending an indication that the claims of the present application are otherwise in condition for allowance.

Respectfully submitted,

Yoshihito KAWAMURA et al.

/Michael R.
By Davis/

Digitally signed by /Michael R. Davis/
On behalf of Michael R. Davis, as WLP, PLLC
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Michael R. Davis
Registration No. 25,134
Attorney for Applicants

MRD/clw/jmj
Washington, D.C. 20005-1503
Telephone (202) 721-8200
Facsimile (202) 721-8250
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